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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: FOO - 175061

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on June 20, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services regarding FoodShare benefits (FS), a hearing was held on July 26, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly determined the Petitioner's FS benefits effective July 1, 2016.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, WI 53703

By: [REDACTED]  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. On May 17, 2016, the Petitioner submitted an application for FS benefits. He reported a household size of one, income from Social Security of \$287 and rent of \$300/month. He also reported that he pays child support of \$122/month.
3. On May 18, 2016, the agency issued a Notice of Decision to the Petitioner informing him that he would receive \$93 in FS benefits for May, 2016 and \$194/month effective April, 2016. This was based on counted income of \$287/month and rent of \$300/month.
4. On June 7, 2016, the Petitioner contacted the agency. At that time, he reported that he started receiving additional SS benefits. He also reported that he is not paying court-ordered child support. Petitioner receives SS benefits of \$753.20/month.
5. On June 8, 2016, the agency issued a request for verification of child support.
6. On June 13, 2016, the agency issued a Notice of Decision to the Petitioner informing him that his FS benefits would be \$16/month effective July 1, 2016.
7. On June 15, 2016, the Petitioner submitted documentation of money that he sent to Peru for his children's support.
8. On June 20, 2016, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### **DISCUSSION**

In determining the amount of FS to be issued each month, the agency must budget all of the recipient's nonexempt income, including earned and unearned income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which currently is \$155 per month for a one-person household. 7 C.F.R. §273.9(d)(1); FoodShare Handbook (FSH), § 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FSH, § 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FSH, § 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FSH, § 4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(5); FSH, § 4.6.7.

The FS child support expense deduction may include only legally obligated or court-ordered child support payments including arrearages actually made and/or reasonably anticipated to be made to a non-household member. FSH, § 4.6.5.1.

In this case, the Petitioner testified at the hearing that he does not dispute the agency's calculations of his income, rent or child support. He does not dispute that his child support payment is not court-ordered or that he is legally obligated to pay a certain amount. The Petitioner testified that he sends money on a monthly basis to his two children in Peru for their support.

In this case, the Petitioner requests equitable relief from the FS requirements. He seeks to appeal "not on legal grounds, but on human grounds." An administrative law judge does not have any authority to act in equity but rather must apply the law and regulations as they are written. I recognize the Petitioner's difficulty in trying to support his children with little income but I have no authority to provide the relief he requests.

I have reviewed the agency's calculations of the Petitioner's FS allotment and find no error. Therefore, I conclude the agency properly determined the Petitioner's FS benefits effective July 1, 2016.

### CONCLUSIONS OF LAW

The agency properly determined the Petitioner's FS benefits effective July 1, 2016.

**THEREFORE, it is**

**ORDERED**

That the Petitioner's appeal is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 16th day of August, 2016

\s \_\_\_\_\_  
Debra Bursinger  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on August 16, 2016.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability